

Senate Judiciary Committee Amendment No. 3 (by Kilby)

Amendment No. 1 to SB2143

Person, Curtis
Signature of Sponsor

AMEND Senate Bill No. 2143*

House Bill No. 2209

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-417(c), is amended by adding the following language as a new subdivision:

(3) Notwithstanding the provisions of subdivision (c)(2) to the contrary:

(A) Methamphetamine is a Class B felony if the amount involved is one (1) gram or more of any substance containing methamphetamine and, in addition thereto, may be fined not more than one hundred thousand dollars (\$100,000); and

(B) Methamphetamine in an amount of less than one (1) gram is a Class C felony and, in addition thereto, may be fined not more than one hundred thousand dollars (\$100,000); provided, however, if the offense involves less than one (1) gram of a controlled substance containing methamphetamine but the defendant carried or employed a deadly weapon as defined in § 39-11-106, during commission of the offense or the offense resulted in death or bodily injury to another person, then such offense is a Class B felony.

SECTION 2. Tennessee Code Annotated, Section 39-17-417(i)(10), is amended by deleting the language "One hundred (100)" and substituting in its place the language "Twenty-six (26)".

SECTION 3. Tennessee Code Annotated, Section 39-17-417(j)(10), is amended by deleting the language "One thousand (1,000)" and substituting in its place the language "Three hundred (300)".

SECTION 4. Tennessee Code Annotated, Title 39, Chapter 17, Part 4, is amended by adding the following language as a new section:

§ 39-17-434.

(a) It is an offense for a person to possess, whether acquired through theft or other means, any substance, with the intent to:

(1) Use such substance in the manufacture of a Schedule I or Schedule II controlled substance; or

(2) To knowingly convey such substance to another for use in the manufacture of a Schedule I or Schedule II controlled substance.

(b) In determining whether a particular substance is possessed with the intent required to violate subsections (a)(1) and (2), of this section, the court or other authority making such a determination shall, in addition to all other logically relevant factors, consider the following:

(1) Statements by the owner or anyone in control of the substances concerning its use;

(2) Prior convictions, if any, of the owner or of anyone in control of the substance for violation of any state or federal law relating to the sale or manufacture of controlled substances;

(3) Instructions or descriptive materials of any kind accompanying the substance or found in the owner or controlling person's possession concerning, explaining, or depicting its use;

(4) The manner in which the substance is displayed or offered for sale;

(5) The quantity and location of the substance considered in relation to the existence and scope of legitimate uses for the substances in the community; and

(6) Expert testimony concerning the substance's use.

(c) This section shall not apply where possession was by a person authorized by this part and title 53, chapter 11, parts 3 and 4 to dispense, prescribe, manufacture or possess the controlled substance in question.

(d) Violation of this section is a Class E felony.

SECTION 5. This act shall take effect July 1, 2004, the public welfare requiring it.